Ameritech's January 10, 1997, Statement included this offering, but it was not reflected in tariffs. Ameritech's filing of March 3, 1997, included this change in tariffs.

ii. Nondiscriminatory Access to Unbundled Elements

1. All terms and conditions of interconnection and unbundled elements must be included in tariffs.

Ameritech's March 3, 1997, Statement included all necessary terms and conditions in tariffs unless specifically identified as lacking herein.

Operations Support Systems

2. All operations support systems and electronic interfaces must be tested and operational before they are acceptable for tariffing.

This issue was considered in the hearing held in this docket. Testimony was heard on March 31, 1997, and April 1, 1997. Oral argument was heard on April 2, 1997.

The Commission finds that Ameritech's Operations Support Systems (OSS) are not tested and operational. The following is a summary of the legal requirements considered in making this decision. In a state Commission's review of a Statement filed under § 252(f)(1), a state commission may not approve such a statement unless it complies with § 251 and the regulations thereunder. Under § 251(c)(3), local exchange carriers (LECs) are required to provide access to unbundled network elements under rates, terms, and conditions that are just, reasonable and nondiscriminatory, and an incumbent LEC must provide unbundled elements in a manner that allows requesting carriers to combine such elements to provide such telecommunications service. In addition, per § 251(c)(4), incumbent LECs are required to offer for resale any telecommunications service and may not impose on the offerings unreasonable or discriminatory

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conditions or limitations. Regulations adopted pursuant to these sections of the Act include the FCC's interconnection order, CC docket No. 96-98 (Interconnection Order). The following are relevant quotes from the Interconnection Order concerning OSS:

47 CFR § 51.313 Just and reasonable and nondiscriminatory terms and conditions for the provision of unbundled network elements.

(a) The terms and conditions pursuant to which an incumbent LEC provides access to unbundled network elements shall be offered equally to all requesting telecommunications carriers.

(b) Where applicable, the terms and conditions pursuant to which an incumbent LEC offers to provide access to unbundled network elements, including but not limited to, the time within which the incumbent LEC provisions such access to unbundled network elements, shall, at a minimum, be not less favorable to the requesting carrier than the terms and conditions under which the incumbent LEC provides such elements to itself.

(c) An incumbent LEC must provide a carrier purchasing access to unbundled network elements with the pre-ordering, ordering, provisioning, maintenance and repair, and billing functions of the incumbent LEC's operations support systems.

Examples of narrative supporting regulations regarding nondiscriminatory provision of unbundled network elements are included in paragraphs 516, 517, 518, 522, and 525 of the Interconnection Order. In establishing these regulations, the FCC determined that OSS are network elements and must be unbundled upon request and are subject to the nondiscriminatory access requirements. Specifically paragraph 525 states:

> Much of the information maintained by these systems is critical to the ability of other carriers to compete with incumbent LECs using unbundled network elements or resold services. Without access to review, *inter alia*, available telephone numbers, service interval information, and maintenance histories, competing carriers would operate at a significant disadvantage with respect to the incumbent. Other information, such as the facilities and services assigned to a particular customer, is necessary to a competing carrier's ability to provision and offer competing services to incumbent LEC's customers. Finally, if competing carriers are unable to perform the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing for network elements and resale services in substantially the same manner that an incumbent can for itself, competing carriers will be severely disadvantaged, if not precluded altogether, from fairly competing. Thus providing nondiscriminatory access to these support

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system functions, which include access to information such systems contain, is vital to creating opportunities for meaningful competition.

In addition, the FCC's Second Order on Reconsideration (of its Interconnection Order) concluded that to comply with its obligation to offer access to OSS functions, an incumbent LEC must, at a minimum, establish and make known to requesting carriers the interface design specifications that the incumbent LEC will use to provide access to OSS functions. The FCC concludes that information regarding interface design specifications is critical to enable competing carriers to modify their existing systems and procedures or develop new systems to use these interfaces to obtain access to the incumbent LEC's OSS functions. The FCC declined to condition the requirement to provide access to OSS functions upon the creation of national standards.

Accordingly, the Commission finds that to meet its stated "tested and operational" requirement, Ameritech must provide access to each of the following interfaces: pre-ordering, ordering, provisioning, repair and maintenance, and billing. That access must be nondiscriminatory, meaning in substantially the same time and manner that an incumbent LEC provides OSS functions to itself. Access to the necessary design and operating specifications must be provided to enable CLECs to use the interfaces. The burden of proof is upon Ameritech to show these requirements have been fulfilled. That burden of proof has not been met.

The evidence Ameritech presented at hearing regarding the "tested and operational" OSS requirement consisted of the statements of its employee, Joseph Rogers Mr. Rogers testified that his conclusions that the systems were fully tested and operational were not based upon first-hand knowledge gained by personal review of the data, but upon statements of employees who worked

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under his direction. When presented with Ameritech's own trouble logs (Exhibits 4,7 & 8), obtained through staff data requests, he had no personal knowledge regarding the contents of these reports. For troubles listed on those reports, he admitted he did not know whether the troubles had been corrected. Some of the listed troubles clearly affected the competitors' ability to provide service to their customers.

Troubles existed with the transaction set 865 and the firm order confirmation (FOC). The record identified that if FOCs are not properly issued, double billing errors could occur. In spite of the existence of such type errors, Mr. Roger's staff still advised him that the systems were fully tested and operational, and he relied on this information in preparing his testimony. Based on the evidence presented by Ameritech, the Commission could not conclude the systems were tested and operational.

Mr. Rogers identified that the interfaces were designed such that access would be provided to the OSS through the interfaces in a similar manner to that which is provided directly to Ameritech customer service representatives. However, evidence was lacking that in fact the interfaces perform in a manner similar to that provided to Ameritech customer service representatives. The AT&T order testing, which took place from October 7, 1996, to November 26, 1996, showed 67 percent of the completed transactions were processed manually. AT&T demonstrated that it had requested in writing information regarding all the causes of manual processing and had been denied that information by Ameritech. AT&T demonstrated it was only able to obtain such information through the regulatory process afforded by this proceeding.

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Staff data requests and staff analysis demonstrated that manual intervention in orders resulted from causes on both the Ameritech and the CLEC sides of the interface. Staff analysis demonstrated that manual intervention was more likely than fully electronic processing to result in a missed due date. Staff analysis of error messages over time, showed new types of error messages on the Ameritech side of the interface and were continuing to occur through the end of that analysis, February 26, 1997. The Commission concludes that, according to the data through February 26, 1997, the ordering interface was not providing predictable, reliable results. Therefore, the Commission concludes Ameritech's electronic ordering interface does not now provide ordering in substantially the same time and manner that it provides ordering to itself.

Also at issue was whether Ameritech would process transactions for competitors in substantially the same time and manner as those processed within Ameritech itself. An analysis of due dates met was presented, but it did not include a comparison measure for Ameritech's own due dates met. In addition, Ameritech's measure of due dates met was inaccurate as it did not consider overdue orders still pending as having missed due dates. An analysis of due dates not met should include overdue pending orders as a due date not met.

Ameritech was not able to provide comparisons to Ameritech customer service representatives for any of the pre-ordering functions. Significant differences in pre-ordering processing time would be service affecting differences as end user customers telephone in their requests for service and expect to receive telephone numbers and due dates while waiting on the line. In addition, the lack of information on the interface for reporting repair or maintenance leaves uncertainty regarding the quality of service provided to CLEC end user customers compared to Ameritech's own end user customers' quality of service.

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The following additional deficiencies were identified through the hearing process. Ameritech did not present evidence that the maintenance and repair interface would operate as expected. In the case where no CLEC has chosen to process live transactions, simulated transactions at significant volumes would need to be presented to demonstrate the interface is operational. Such information was not presented. The specification information provided to enable competing providers to use the ordering and billing interfaces was not complete for unbundled network elements. Universal service ordering codes (USOCs) had not yet been established for certain unbundled network elements or for combining unbundled network elements. Without such USOCs, CLECs do not have all the necessary information to place orders for unbundled network elements.

As the evidence in this docket, the federal legislation and the FCC orders make clear, Ameritech's OSS systems are critical to a competitor's success. An inability to use those systems could prevent the competitor from providing timely service to its customers. For that reason, the Commission will continue to require Ameritech to demonstrate that its OSS interfaces are fully functional and usable – that they are tested and operational, and that competitors have full specifications and information to enable the competitors to write software to work with those interfaces – before the Commission can approve a Statement.

The Commission is also concerned that the OSS interfaces remain useful in the future, since these OSS interfaces will continue to be critical to competitors' ability to provide service. Ameritech will have to, over time, revise and update these interfaces to incorporate changes and upgrades in it own systems: the systems to which the OSSs provide access. However, when these changes and updates are implemented, the competitors must rewrite their own order taking,

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processing and tracking software to work with the revised interfaces (and debug the new software, and retrain their service representatives, etc.) As was described, and unrebutted, in the hearing, Ameritech could potentially release upgrades and changes frequently enough to prevent the competitors from ever having fully functional software for handling service orders or serving their customers. It is critical that Ameritech have a change management process, defined and in place, to prevent this from happening, even unintentionally.

Ameritech did not present any evidence that it had a change management system complete and in place. It is reasonable to require that such a system be completed and in place before the Commission approves the Statement. To meet this requirement, the change management system must: (1) provide sufficient notice of impending changes to allow users to modify and debug their own systems, and to retrain their service representatives, (2) bundle small and incremental changes into a batched upgrades, thus limiting the number of rewrites users must undertake and (3) allow users input into the scheduling of upgrades, and allow production users an opportunity to object to Ameritech's implementation of releases which are not backwards compatible. Such objections would delay the implementation schedule until either Ameritech and the users could reach an agreement on an acceptable schedule, or until the Commission approves Ameritech's or an alternative schedule. While the Commission expects Ameritech to work to resolve all customer objections to its proposed changes and upgrades, customers could only demand delays if the upgrade was not backwards compatible.

The Commission has special concerns about upgrades that are not backwards compatible - that is, that will not allow software written to the previous versions of the specifications to function. If a CLEC is using the OSS interfaces to place orders and to serve its customers, and

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Ameritech implements a non-backwards compatible upgrade, the CLEC must upgrade or it will be unable to process orders or serve its customers. If the CLEC cannot complete the rewrite of its systems, and/or the training of its service representatives on the rewritten systems, it will be out of business until it completes the tasks. Given that the timing of non-backwards compatible interfaces can be, quite literally, a matter of life and death for the competitors, it is reasonable to give them a strong voice in determining the timing of such upgrades.

In nearly all cases, it will be possible to create backwards-compatible upgrades, although it might require some extra expense or effort on Ameritech's part. Whenever computer standards change, much of the time and effort of the standards bodies is in ensuring that the standards are backwards compatible to the extent possible. Few changes to the standards in the computer world are not backwards compatible, and those that are not typically have a multi-year phase in. In nearly all cases, if an upgrade is not backwards compatible, it will be due to Ameritech's choice.

Consider the example frequently used by Joe Rogers, who testified for Ameritech on OSS issues, of Ameritech offering "left handed call waiting." Assume an upgrade to the OSS interface would be necessary to allow CLECs to order left handed call waiting: that a new field must be used, and contain either an "R" for standard call waiting, or an "L" for the left handed version. A backward compatible upgrade would assume that, if the provider did not enter anything in the field, the order was for regular call waiting. Thus CLECs that were using software written to older versions of the Ameritech specification, which did not use the L/R field, could continue to place orders, but would be unable to order left handed call waiting. On the other hand, an upgrade which was not backward compatible would reject all orders which did not

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have that field filed in with either an "L" or and "R". In such cases, CLECs who had not upgraded to the new standard could not place any orders, not even for regular call waiting.

If left-handed call waiting is a service that customers want, then the CLECs have a strong incentive to upgrade to the versions of the OSS interfaces that allow it to order the service so they do not lose customers or potential customers who want left-handed call waiting. On the other hand, if an upgrade does not provide a CLEC with any desirable additional functionality, efficiency or the ability to order new services, then the CLEC will have no reason to incur the costs of upgrading to a newer version. A CLEC would not choose to pay for new software systems if it gains no benefit from the upgrade, and it is not reasonable for the Ameritech OSS upgrades to force it to incur such expenses unnecessarily.

Ameritech has expressed concerns that the CLECs should not have the ability to delay new upgrades for strategic reasons. This is unlikely. By delaying the implementation of an upgrade, the CLEC would be harming its ability to compete, but not Ameritech's, since Ameritech does not need the interfaces to use its own systems. This is doubly true since only objections from competitors using the OSS interfaces to serve actual customers, as opposed to for testing purposes, would have the power to stay the implementation schedule.

CLECs would only have an incentive to object to an upgrade if it were not backwards compatible, and if the cost of implementing the upgrade exceeded any possible benefit the CLEC could obtain from that upgrade. In such a case, the CLEC should be able to object, and the upgrade should be placed on hold. However, it is reasonable to expect that Ameritech Industry Information Services (AIIS), the business group that administers the interfaces, will continually talk to these CLECs, and be able to reach a compromise in most cases. AIIS representatives

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have testified that that is their job. If a CLEC gains no benefit for the costs of upgrading, but Ameritech has its own reasons for desiring the upgrade, then Ameritech might have to absorb some of the CLEC's costs for implementing a non-backwards-compatible upgrade, or Ameritech may have to add some functions to the upgrade that the CLEC would value. Alternatively, if some CLECs benefit from an upgrade, but others do not, those benefiting may have to cover the costs of upgrading for those not benefiting. Such arrangements are routine in competitive marketplaces, where customers are free to choose not to buy upgrades. It is reasonable for this Commission to impose a substitute for this market mechanism and foreclose Ameritech's complete control over both the number and scheduling of non-backwards-compatible upgrades.

It is also possible, if highly unlikely, that a single CLEC (or small number of CLECs) would object to the release of an upgrade that the vast majority of users of that OSS interface want and would benefit from. In such cases, Ameritech could appeal that objection to the Commission. In discussions with Ameritech, staff has discussed several schedules under which such appeals, even if an initial staff determination were appealed to the Commission, would be handled rapidly enough to maintain the initial roll-out schedule. A reasonable roll-out schedule would only be delayed if the upgrade proved highly controversial, with enough users on each side to require a hearing before the Commission could issue its determination. Even in that event, the appeal may be concluded in time to meet the original roll-out schedule

Ameritech has suggested that any upgrade which moves towards or implements some or all of a national standard be exempted from the objection process. Several CLECs have testified to the advantages that a single set of interfaces, written to national standards, would produce. Therefore, CLECs should have incentives to implement such upgrades, provided that they do not

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implement only those portions of the national standard that provide benefits to Ameritech or to a particular subset of competitors. Likewise, competitors might object if Ameritech made the transition to national standards in a number of small, non-backwards compatible steps instead of a single upgrade, thereby requiring CLECs to incur the expense of rewriting, debugging and retraining many times. Objections would likely occur only if (1) Ameritech chooses not to make its upgrades towards national standard backwards compatible, and (2) the upgrades are released in an unreasonably large number of steps, or are designed to incorporate only those portions of the standards that benefit either Ameritech or a limited subgroup of the CLECs. These scenarios are unlikely, but CLECs should have a right to object under those circumstances. Moving toward a national standard would be a strong reason for the Commission to overrule objections. A CLEC objecting to such an upgrade would have a significant burden in showing that a delay in implementing the OSS upgrade is warranted Therefore, the Commission does not find it reasonable for any non-backwards-compatible upgrades to be exempted from objection, even if they are intended to move towards a national standard.

In summary, if Ameritech plans an upgrade to an OSS interface which, when implemented, will prevent software written to previous specifications from functioning, then any user using the interface for processing live transactions (as opposed to testing) may object to the timing of the Ameritech implementation of the new release. If such an objection is filed, Ameritech's change management plan must state that Ameritech will delay roll-out of that release until the objection is lifted or acted upon by the Commission. Ameritech does have the opportunity to appeal any such objections to the Commission, which may approve roll-out on the original schedule, set another schedule or take other action, as appropriate. Ameritech may

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address the process it prefers for handling objections and appeals to objections with its filing of a change management system. Upgrades which allow older software to continue to function without impairment are not subject to such delays, but the change management system should accommodate user input into the timing of such upgrades.

The Commission acknowledges that Ameritech is working very hard to accomplish the task of providing access to its OSS. This is a brand new undertaking for local exchange carriers. Ameritech has been proactive in developing and using industry standards. However, Ameritech must finish the task before the Commission can approve its Statement. Competing providers need assurances of the stability and readiness for use of Ameritech systems before investing in facilities and committing resources to applying these interfaces in practice. The Commission finds it will need to revisit the issue of whether Ameritech's OSS are tested and operational in any future filing of a Statement. Proper review has required a significant commitment of Commission resources. Ameritech has filed its complete Statement three times already while access to its OSS was not yet tested and operational. Accordingly, it is reasonable for the Commission to establish a threshold set of data that must be filed before Ameritech can file another Statement with the Commission.

Appendix B to this order enumerates the data that must be filed. Ameritech must gather all the information listed therein and submit it to the Commission at least 14 days prior to filing another Statement.

In addition, the Commission now finds it appropriate to establish a new order requirement regarding OSS. The first order's requirements stated, "Operations support systems and electronic interfaces must be tested and operational before tariffs are acceptable for filing." The

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Commission finds the Telecommunications Act of 1996 and the rules issued thereunder provide sufficient criteria that must be met regarding OSS before a Statement can be approved without having OSS functionality as a prerequisite to tariff filing. Manual systems do exist to process orders and provide other functions to competing LECs. Having tariffs on file that state OSS access is part of the offering of interconnection is important, but not sufficient for approval of a Statement. The full availability of that access is the necessary prerequisite for approval. Therefore it is reasonable for this Commission to establish a new requirement as follows: Operations support systems must be tested and operational before a Statement will be approved.

3. Performance benchmarks must be included in unbundled element offerings. Ameritech's offering must state that issues regarding type, standards, levels, and frequency of performance benchmarks may be referred to the Commission.

In Ameritech's January 10, 1997, and March 3, 1997, filed Statements, Ameritech had added language to the Statement to address these items. Staff recommended in its comments on these filings that it is appropriate for this language to appear in the Statement rather than the tariff. Tariffs are not generally used to express actual performance standards or dispute processes. Adding these items to the Statement rather than the tariff is acceptable. The Statement does not, however, yet specify actual performance benchmarks or parity reports. Lack of finality on these items may not in and of itself be sufficient reason to reject a Statement, although significant inadequacies in performance benchmarks and parity reports would be sufficient. The statement under review is still too vague to meet the Commission's performance benchmark requirement.

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4. Ameritech's offering must state the maximum time interval for provision of service. At the request of any interconnecting party, that time interval may be appealed to the Commission.

Staff did not find a specific reference to maximum time intervals in Ameritech's January 10, 1997, or March 3, 1997, Statements. Ameritech may consider it included in the reference to performance benchmarks discussed above. The tariffs should include a general reference to the maximum time interval for provision of a service. The specific time intervals need not be included in the tariffs, however, if they are not, they must be included in the Statement language.

5. (a) Ameritech must revise its rates for unbundled elements to reflect the appropriate economic lives as set forth in the Final Order in docket 05-DT-101, dated September 15, 1995.

In Ameritech's Statement refiled on January 10, 1997, Ameritech contested this requirement and instead filed an opinion by the law firm, Foley and Lardner, which was supported by a paper of an economist, Dr. Debra Aron. In this Commission's February 20, 1997, oral decision, the Commission upheld this order requirement. The March 3, 1997, refiled statement is in compliance with this order requirement.

The opinion filed by the law firm, Foley and Lardner, asserted the docket 05-DT-101 order had not taken into consideration the sea of changes in telecommunications markets and would, therefore, be improper and unreasonable to use in setting unbundled rates. It also cited the pricing standards, § 252(d)(A)(i), which states that cost is to be "determined without reference to a rate-of-return or other rate-based proceeding."

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The order in docket 05-DT-101 was issued to comply with the requirements of s. 196.09(9), Wis. Stats. That statute was created by Wisconsin Act 496, the landmark legislation which refocused telecommunications regulation in Wisconsin to promote competition and opened telecommunications markets to competition. The intent of the Wisconsin Act closely matches that of the federal Act. The order in docket 05-DT-101 was based upon analysis of a telecommunications market that would be opened to competition. In s. 196.09(9)(a), Wis. Stats., the depreciation ranges are to be used by telecommunications utilities for public utility purposes. Therefore, reference to this section for analysis of depreciation lives used in a TELRIC study is not the equivalent to a reference to depreciation lives set in a rate-of-return proceeding. While this range of rates may be applied in rate-of-return situations, the range is applicable to all public utility purposes.

Dr. Aron asserted that the depreciation ranges determined in docket 05-DT-101 are inconsistent with the idealized assumptions of forward-looking cost models. She claims the range of depreciation rates were derived from historical observations of networks. However, the depreciation ranges in the order in docket 05-DT-101 do reflect changing technologies and obsolescence as they provide for substantially faster recovery than current retirements would dictate. Historical retirements average 5 percent or less of plant each year, while the depreciation ranges provide for recovery of up to 8.5 percent of the plant each year. The difference between the historical retirement rate and the 8.5 percent rate demonstrates anticipation of future obsolescence not evident in historical retirements trends. The range reflects economic life and not physical life. In addition, the models used do not, themselves, fully reflect economic costs as

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they do not reflect annual valuation changes but instead develop the levelized cost over the economic life.

Dr. Aron contended the risk of stranded plant is not reflected. The models themselves reflect this risk in the use of fill factors. This Commission has already recognized and concluded in the first order in this docket "that fill factors that are lower than is feasible engineering-wise can still be reasonable now that facilities-based competition can exist and the uncertainty of the demand forecasts is greater." The Commission finds no inconsistency with the range of depreciation rates determined in docket 05-DT-101 and the idealized forward-looking cost models.

Wisconsin Act 496 also recognized the importance of responding to technological change in the provisions included in this section. Section 196.09(9)(a)(2), Wis. Stats., requires the depreciation ranges to be updated biennially, and provides a mechanism for earlier review upon request. Ameritech has not appealed the order in docket 05-DT-101or requested an earlier review. Docket 05-DT-102 is currently open to evaluate revision of these depreciation ranges. Because of the dynamic nature of the ranges of depreciation rates set under s. 196.09(9), Wis. Stats., application of to the ranges set thereunder to TELRIC studies is reasonable and appropriate.

The Commission considered the overall depreciation rate when making reference to the order in docket 05-DT-101. The composite 8.5 percent depreciation rate is reasonable when the relative investment in long-lived assets like poles and wire and the relative investment in short-lived assets like electronics is considered. However, it is reasonable to allow Ameritech to propose revision of its rates for unbundled network elements to reflect changes in the range of

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depreciation rates allowed in future proceedings. Such revision will be subject to Commission review and approval.

MCI asserted that Ameritech's adjustments, to meet the Commission's depreciation rate adjustment, did not lower prices for unbundled elements by as much as would be predicted by application of a sensitivity analysis supplied in its arbitration porceeding with Ameritech. The MCI arbitration case included numerous other adjustments including a cost of capital adjustment and capital structure adjustment which were not required in the first order in this docket. Staff sensitivity analysis shows the adjustment resulting from the depreciation requirement was within the magnitude expected.

MCI makes a generic appeal that cost studies should be further reviewed allowing more time and participation. The Commission finds that paper proceedings have been adequate and included sufficient opportunity to comment. The Commission determined cost studies ware not being revisited in this proceeding.

5. *(b) No adjustment is required on this issue in the first order.*

5. *(c) Ameritech must revise all its rates for unbundled elements to reflect joint and common costs based on 1997 total joint and common costs divided by 1997 total demands.*

Ameritech's January 10, 1997, Statement did not comply with this requirement. Ameritech had increased its markup for unbundled elements to include those retailing costs that would be avoided in the wholesale environment. The Commission determined that only those costs that would continue in a wholesale environment are appropriate to include in the markup on unbundled elements for joint and common costs.

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MCI asserts that defects exist in Ameritech's forecast of joint and common costs and Ameritech has not properly allocated these costs to unbundled elements on a per unit basis. The first order explains that staff analysis of joint and common costs started with actual historical costs related to network services. These were adjusted for known changes based on the Arthur Andersen growth rate of 8 percent a year. This growth rate was deemed reasonable in light of the more complex business environment that will exist. That order also explained that staff raised concerns about the demand units over which costs were spread. Accordingly, the Commission required that the annual joint and common costs were to be allocated over all demands. In practice the TELRIC cost was summed for all demand units of both bundled and unbundled services and was compared to the annual joint and common costs to determine the markup percent. The Commission reaffirms its first order requirements regarding the amount and allocation of joint and common cost.

Ameritech's March 3, 1997, Statement and associated tariffs now comply with this requirement. The markup on TELRIC is now 23.4 percent and is applied uniformly. The first order indicated, "Staff estimated the effect of this adjustment will be to reduce Ameritech's proposed mark-up on TELRIC from 27 to 22 percent." With the further identification of costs that will continue in the wholesale environment as is discussed under "Resale" below, the Commission finds that the 23.4 percent markup is reasonable.

6. *(a) Ameritech must remove the differential pricing of Zone A, Zone B, and Zone C and price all unbundled loops on a geographically uniform basis, unless Ameritech proposes an economically rational system of deaveraged prices, together with full technical, economic, and cost support.*

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In Ameritech's January 10, 1997, filing did not comply with this requirement. Ameritech filed an average rate that was higher than the highest rate of Zone C.

Ameritech's March 3, 1997, filing complies with this requirement. Ameritech has computed average loops rates based on relative access lines in each former Zone.

Time Warner and MCI assert that a statewide average loop rate is not based on cost and proper zone rates should be established. The Commission reaffirms its decision stated in its first order that Ameritech's zone pricing scheme may not sufficiently reflect cost variability factors for loops. Maintaining a statewide average loop rate is more reasonable in the short time period that it is likely to be in effect, than to adopt a flawed zone pricing scheme in conjunction with average-priced retail lines when the combination has been shown to have unreasonable price squeezing effects. Under its election to be a price regulated utility, Ameritech's retail prices are only frozen by statute until September 1997. Ameritech may request approval for deaveraging both retail line and wholesale loop rates on a common basis at that time.

6. *(b) No adjustment is required on this issue in the first order.*

6. *(c) Ameritech must include in the price of a port only those features that appear on a typical port for the service line classification, including separate residence and business ports.*

Ameritech's January 10, 1997, filing included separate prices for unbundled residence and business ports. However, Ameritech had refused staff access to cost support information stating that the material was proprietary to Bellcore. In the Commission's February 20, 1997, oral decision, the Commission required Ameritech to make arrangements for staff to review cost support for unbundled ports. Contracting with third parties does not relieve Ameritech of its

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obligation to provide cost support for Commission review. Ameritech did provide such access, however, review of this requirement is not complete. Therefore, the cost basis for Ameritech's price differentiation by line class for unbundled ports will be an outstanding issue when Ameritech refiles its Statement.

iii. Nondiscriminatory Access to Poles, Ducts, Conduits, and Rights-of-Way

1. All terms and conditions related to rights-of-way must be included in interconnection tariffs.

2. Ameritech's offering must be revised to make it clear access will be provided to rights-of-way held by ownership of property as well as rights-of-way acquired from other property owners.

3. While Ameritech must provide "pathways" through its manholes, etc., to allow access to its rights-of-way, the existence of such pathways does not imply that interconnection in such "pathways" is automatically feasible.

4. Ameritech must revise its offering to state that if access is not granted within 45 days, then the utility will confirm the denial in writing including all relevant evidence and how such evidence or information relate to a denial in conformance with the Federal rules.

5. No adjustment is required on this issue in the first order.

6. No adjustment is required on this issue in the first order.

7. No adjustment is required on this issue in the first order.

Ameritech's January 10, 1997, and March 3, 1997, Statements included its "Pole Attachments and Conduit Occupancy Accommodations tariff" which contains terms and conditions to meet all of the four required actions.

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iv. Unbundled Local Loop Transmission

The Commission first order indicated that all concerns related to unbundled local loop transmission were addressed elsewhere in the order. For example, the discussion of nondiscriminatory access to unbundled elements addressed all pricing issues.

v. & vi. Unbundled Local Transport and Local Switching

The discussion below combines discussion of both unbundled local transport and unbundled local switching as these two elements are inextricably combined in Ameritech's Statement. (Ameritech requires the purchase of certain transport elements in order to purchase unbundled local switching instead of existing retail access services.) Quotations from relevant statutes and regulations are given herein to provide a legal framework for the discussion in a manner similar to the presentation in the first order.

The Commission's first order indicated that unbundled local transport and unbundled local switching were addressed elsewhere in the order, however, the Commission also identified certain unbundled element issues about which it would be willing to receive additional information. Those issues were (with the heading under which they appear in the discussion in this order shown in parenthesis): collocation of remote switching modules (same heading), availability of dark fiber (dark fiber); shared interoffice transport (common transport), and six possible deficiencies in the local switching element. Those six items were: recognition of the provider of exchange access (Provider of exchange access service), provision of customized routing (Customized routing functions), restriction of use for terminating services (Provider of exchange access service), availability of vertical features (Vertical features), the usage

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development and implementation charge (same heading) and the viability of Ameritech's offering. This order provides decisions on all of these additional items except the viability of Ameritech's offering.

References for Unbundled Local Transport

Relevant Provisions of the Act

§ 271(c)(2)(B) COMPETITIVE CHECKLIST

(v) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

§ 251 (c)(3) Unbundled access.--The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

Selected sections of FCC rules (not under stay)

§ 51.307 Duty to provide access on an unbundled basis to network elements

(c) An incumbent LEC shall provide a requesting telecommunications carrier access to an unbundled network element, along with all of the unbundled network element's features, functions, and capabilities, in a manner that allows the requesting telecommunications carrier to provide any telecommunications service that can be offered by means of that network element.

(d) An incumbent LEC shall provide a requesting telecommunications carrier access to facility or functionality of a requested network element separate from access to the facility or functionality of other network elements, for a separate charge.

§ 51.309 Use of unbundled network elements.

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(b) A telecommunications carrier purchasing access to an unbundled network element may use such network element to provide exchange access services to itself in order to provide interexchange services to subscribers.

(c) A telecommunications carrier purchasing access to an unbundled network facility is entitled to exclusive use of that facility for a period of time, or when purchasing access to a feature, function or capability of a facility, a telecommunications carrier is entitled to use of that feature, function, or capability for a period of time. ...

§ 51.319 Specific unbundling requirements

(d) Interoffice Transmission Facilities

(1) Interoffice transmission facilities are defined as incumbent LEC transmission facilities dedicated to a particular customer or carrier, or shared by more than one customer or carrier, that provide telecommunications between wire centers owned by incumbent LECs or requesting telecommunications carriers, or between switches owned by incumbent LECs or requesting telecommunications carriers.

(2) The incumbent LEC shall:

(i) provide a requesting telecommunications carrier exclusive use of interoffice transmission facilities dedicated to a particular customer or carrier, or use of the features, functions, and capabilities of interoffice transmission facilities shared by more than one customer or carrier;

(ii) provide all technically feasible transmission facilities, features, functions, and capabilities that the requesting telecommunications carrier could use to provide telecommunications services;

(iii) permit, to the extent technically feasible, a requesting telecommunications carrier to connect such interoffice facilities to equipment designated by the requesting telecommunications carrier, including, but not limited to, the requesting carrier's collocated facilities; and

(iv) permit, to the extent technically feasible, a requesting telecommunications carrier to obtain the functionality provided by the incumbent LEC's digital cross-connect systems in the same manner that the incumbent LEC provides such functionality to interexchange carriers;

<u>Selected descriptions in the body of 96-325, FCC Interconnection Order in CC Docket No. 96-98</u>:

412. We define the local switching element to encompass line-side and trunk-side facilities plus the features, functions, and capabilities of the switch. The line-side facilities include the connection between a loop termination at, for example, a main distribution frame (MDF), and a switch line card. Trunk-side facilities include the connection between, for example, trunk termination at a trunk-side cross connect panel and a trunk card. The "features,

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functions, and capabilities of the switch include the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, trunks to trunks. ...

440. We require incumbent LECs to provide unbundled access to shared transmission facilities between end offices and the tandem switch. Further, incumbent LECs must provide unbundled access to dedicated transmission facilities between LEC central offices or between such offices and those of competing carriers. ...

441. The ability of new entrants to purchase the interoffice facilities we have identified will increase the speed with which competitors enter the market. By unbundling various dedicated and shared interoffice facilities, a new entrant can purchase all interoffice facilities on an unbundled basis as part of a competing local network, or it can combine its own interoffice facilities with those of the incumbent LEC. The opportunity to purchase unbundled interoffice transport will decrease the cost of entry compared to the much higher cost that would be incurred by an entrant that had to construct all of its own facilities. An efficient new entrant might not be able to compete if it were required to build interoffice facilities where it would be more efficient to use the incumbent LEC's facilities. ...

447. Section 251(d)(2)(B) requires the Commission to consider whether the failure to provide access to an unbundled element "would impair the ability of the telecommunications carrier seeking access to provide the services it seeks to offer." We have interpreted the term "impair" to mean either increased cost or decreased service quality that would result from using network elements other than the one sought. ...

450. ... We also decline at this time to address the unbundling of incumbents LECs "dark fiber." Parties that address the issue do not provide us with information on whether dark fiber qualifies as a network element under sections 251(c)(3) and 251(d)(2). Therefore, we lack a sufficient record on which to decide this issue. We will continue to review and revise our rules in this area as necessary.

References for Unbundled Local Switching

Relevant Provisions of the Act

§ 271(c)(2)(B) COMPETITIVE CHECKLIST

(vi) Local switching unbundled from transport, local loop transmission, or other services.

§ 251 (c)(3) Unbundled access. (See citation above.)

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§ 251(c)(6) Collocation--The duty to provide, on rates, terms, and conditions, that are just and reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier....

Selected sections of FCC rules (not under stay)

§ 51.307 Duty to provide access on an unbundled basis to network elements. (See citation above.)

§ 51.309 Use of unbundled network elements. (See citation above.)

§ 51.319 Specific unbundling requirements

(c) Switching Capability

(1) Local Switching Capability.

(i) The local switching capability network element is defined as:

(A) line-side facilities, which include, but are not limited to, the connection between a loop termination at a main distribution frame and a switch line card;

(B) trunk-side facilities, which include, but are not limited to, the connection between trunk termination at a trunk-side cross-connect panel and a switch trunk card; and

(C) all features, functions, and capabilities of the switch, which include but are not limited to:

(1) the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks, as well as the same basic capabilities made available to the incumbent LEC's customers, such as a telephone number, white page listing, and dial tone; and

(2) all other features that the switch is capable of providing, including but not limited to custom calling, custom local area signaling service features, and CENTREX, as well as any technically feasible customized routing functions provided by the switch.

Selected sections of FCC rules (staved pricing rule)

§ 51.515 Application of access charges

(a) Neither the interstate access charges described in part 69 nor comparable intrastate access charges shall be assessed by an incumbent LEC on purchasers of elements that offer telephone exchange or exchange access services.

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